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PARKRIDGE LIMITED AND MABEL MAK

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

PARKRIDGE LIMITED, a Hong Kong corporation, by Mabel Mak, and MABEL MAK, an individual,

Plaintiffs,

V.

INDYZEN, INC., a California corporation, and PRAVEEN NARRA KUMAR, an individual,

Defendants.

Case No. 4:16-cv-07387-JSW

**PLAINTIFF/COUNTER-DEFENDANT
PARKRIDGE LIMITED'S RESPONSE
TO DEFENDANT'S MOTION FOR
EXTENSION TO SERVE SUMMONS**

Hon. Jeffrey S. White

Date: _____, 2020

Time: 9:00 a.m.

Dept.: Courtroom 5, 2nd Floor

Amended Complaint Filed: May 7, 2020

INDYZEN, INC., a California corporation,

Counter-Plaintiffs,

V.

PARKRIDGE LIMITED, a Hong Kong corporation and RANDY DOBSON, an individual,

Counter-Defendants.

1 Plaintiff/Counter-Defendant Parkridge Limited (“Parkridge”), by and through undersigned
 2 counsel, hereby responds in opposition to Defendant Indzyen, Inc.’s (“Indyzen”) Motion for Extension
 3 to Serve Summons. While an extension of time to serve is ordinarily appropriate, it is clear that, under
 4 these circumstances, there is no good cause to grant such an extension. Defendant’s claims against Mr.
 5 Dobson have already been dismissed, there is no legal basis for exercising personal jurisdiction over
 6 Mr. Dobson even if service is made, and Defendant has not established that it has actually engaged in
 7 reasonable attempts at service. The Motion should be denied.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 **I. DEFENDANT’S MOTION SHOULD BE CONSIDERED MOOT BECAUSE ALL
 10 CLAIMS AGAINST MR. DOBSON HAVE BEEN DISMISSED.**

11 The Court should deny Defendant’s Motion on the grounds that it is moot. The Court has
 12 dismissed all claims against Mr. Dobson and Defendant’s time to file an amended pleading has passed
 13 without the filing of any such amendment. ECF 155. As Mr. Dobson has been dismissed, there is no
 14 point or purpose to granting an extension to serve him with process. Defendant’s Motion is therefore
 15 moot and should be denied.

16 **II. AN EXTENSION OF TIME TO SERVE WOULD BE FRUITLESS BECAUSE
 17 DEFENDANT HAS FAILED TO DEMONSTRATE THAT THIS COURT CAN EXERCISE
 18 PERSONAL JURISDICTION OVER MR. DOBSON.**

19 Though the Court did not specify its reasons for granting Mr. Dobson’s Motion to Dismiss, it
 20 is clear from the context of the Court’s order that it did not find that Defendant had established a basis
 21 for the Court to exercise personal jurisdiction over Mr. Dobson. That is because the Court does not
 22 have a basis for exercising personal jurisdiction over Mr. Dobson. Nor would service of process be
 23 sufficient to invoke this Court’s personal jurisdiction.

24 As Mr. Dobson asserted in his Motion to Dismiss (ECF 136), there is no basis for personal
 25 jurisdiction over Mr. Dobson. “General jurisdiction exists when a defendant is domiciled in the forum
 26 state or his activities there are ‘substantial’ or ‘continuous and systematic.’” *Panavision Int’l, L.P. v.
 27 Toeppen*, 141 F.3d 1316, 1320 (9th Cir. 1998), holding modified by *Yahoo! Inc. v. La Ligue Contre Le
 28 Racisme Et L’Antisemitisme*, 433 F.3d 1199 (9th Cir. 2006). “Unless a defendant’s contacts with a

1 forum are so substantial, continuous, and systematic that the defendant can be deemed to be “present”
 2 in that forum for all purposes, a forum may exercise only “specific” jurisdiction—that is, jurisdiction
 3 based on the relationship between the defendant's forum contacts and the plaintiff's claim.” *Yahoo! Inc.*
 4 v. *La Ligue Contre Le Racisme Et L'Antisemitisme*, 433 F.3d 1199, 1205 (9th Cir. 2006). “In this circuit,
 5 we analyze specific jurisdiction according to a three-prong test:

- 6 (1) The non-resident defendant must purposefully direct his activities or
 consummate some transaction with the forum or resident thereof; or
 perform some act by which he purposefully avails himself of the
 privilege of conducting activities in the forum, thereby invoking the
 benefits and protections of its laws;
- 7 (2) the claim must be one which arises out of or relates to the defendant's
 forum-related activities; and
- 8 (3) the exercise of jurisdiction must comport with fair play and
 substantial justice, i.e. it must be reasonable.

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 10 *Id.*, at 1205–06. As Indyzen has alleged, Dobson is “an individual of United States Citizenship,
 currently residing in Vietnam...”, it is undisputed that Dobson does not reside within the forum state.
 11 ECF 124, Counterclaims, ¶ 3. Any and all of Dobson's activities directed into this forum, however,
 12 were performed his official capacity as CEO of Parkridge, and, as a matter of law, those actions cannot
 13 subject him to this Court's personal jurisdiction. *Colt Studio, Inc. v. Badpuppy Enter.*, 75 F. Supp. 2d
 14 1104, 1111 (C.D. Cal. 1999).

15 While Defendant seeks to circumvent these limitations on the Court's personal jurisdiction by
 16 alleging alter ego theories, those theories have already been adjudicated in Mr. Dobson's favor.
 17 Defendant vigorously sought and obtained this Court's confirmation of the Arbitration Award. That
 18 award contains the specific factual findings of the arbitrator that Defendant had failed to submit
 19 evidence which would be sufficient to establish any alter ego or other veil piercing theory. That issue
 20 is now fully adjudicated and resolved. Thus, the only allegation which *might* have allowed the Court
 21 to exercise personal jurisdiction over Mr. Dobson is not available to sustain Defendant's claims.

22 As the Court does not and cannot have personal jurisdiction over Mr. Dobson, an extension of
 23 time to effect service would be an exercise in futility. Defendant's Motion should be denied.

24 **III. DEFENDANT HAS NOT BEEN DILIGENT IN SEEKING TO SERVE MR. DOBSON.**

25 Defendant has indisputably not been diligent in attempting to serve Mr. Dobson, and for that

1 reason should not be rewarded with additional time to serve. In an effort to feign diligence, Defendant
 2 offers the Declaration of Christopher Addy (“Mr. Addy’s Declaration”), one of Defendant’s counsel,
 3 which does not demonstrate that Defendant has taken reasonable efforts to secure service. While Mr.
 4 Addy’s Declaration states that his staff had “already begun attempts to locate and serve Dobson” before
 5 he sought an agreement to accept service, it does not actually identify when Defendant began making
 6 efforts to serve Mr. Dobson. ECF 159-1, ¶ 4.

7 Defendant filed its Counter-Claims on May 7, 2020. Yet Defendant has not even claimed that
 8 it began taking any steps to serve Mr. Dobson. Indeed, the first date of any efforts at service stated by
 9 Mr. Addy is August 27, days before the service period was set to expire. ECF 159-1, ¶¶ 2-3. Even
 10 giving credence to the representations that Defendant had attempted to obtain an agreement to accept
 11 service for “over a month”, Mr. Addy’s Declaration still only supports the conclusion that Defendant
 12 first began attempting to serve Mr. Dobson in mid to late July 2020, more than two months after filing
 13 their Counter-Claims. Based on these representations alone, it is impossible to conclude that Defendant
 14 has acted diligently in seeking to effect service. Such dilatory conduct does not justify the extension
 15 Defendant requests, and so Defendant’s Motion should be denied.

16 IV. CONCLUSION

17 The Court should deny Defendant’s Motion because there is simply no good basis for granting
 18 it. Defendant’s claims against Mr. Dobson have already been dismissed, and Defendant has not
 19 attempted to amend and show that the exercise of personal jurisdiction is proper. Defendant’s Motion
 20 is therefore moot and should be denied on that basis. Furthermore, it is quite clear that there is no basis
 21 for the exercise of personal jurisdiction over Mr. Dobson, and so Defendant’s Motion is seeks relief
 22 that would be fruitless and result in a waste of time and resources. Defendant cannot establish a claim
 23 against Mr. Dobson because any alter ego allegation has already been resolved against Defendant.
 24 Therefore, Defendant cannot sustain any claims against Mr. Dobson in his individual capacity.

25 Finally, Defendant has failed to actually show that it has been diligent in seeking to serve Mr.
 26 Dobson. It is readily apparent that Defendant did not even begin to attempt service until more than two
 27 months after the filing of their Counter-Claims and after Mr. Dobson has filed a Motion to Dismiss
 28 asserting lack of personal jurisdiction. Defendant’s failure to move forward with service should not be

1 rewarded with additional time, particularly in light of the futility of the effort; this Court cannot exercise
2 personal jurisdiction over Mr. Dobson even if service were completed. Therefore, the Court should
3 deny Defendant's Motion for Extension to Serve Summons.

4 DATED: September 17, 2020

CALLAGY LAW, P.C.

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6 By:

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